

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In Re:	:	Case No. 05-75540
Jeffrey F. Howard	:	
Deborah S. Howard	:	Chapter 13
	:	Judge Caldwell

MOTION TO DEEM MORTGAGE CURRENT

Now comes Frank M. Pees, Chapter 13 Trustee (“Trustee”), and moves this Court for an order deeming Debtors’ mortgage obligation to COUNTRYWIDE HOME LOANS (“Mortgage Company”) current as of the month in which the final payment was made by the Trustee, specifically, SEPTEMBER, 2009 (“Final Payment Date”). Support for this motion is set forth below.

MEMORANDUM

Debtors filed a case under Chapter 13 of the Bankruptcy Code on October 14, 2005. The plan was confirmed on January 5, 2006. Pursuant to the terms of Debtors’ confirmed Chapter 13 Plan and any filed proofs of claim, any default in the mortgage obligation was to be cured, and regular, post-petition mortgage payments were to be paid to Mortgage Company through the Trustee by “conduit” commencing November, 2005.

Debtors have completed all requirements of the confirmed Plan, and Trustee made the final conduit mortgage payment on the Final Payment Date. Debtors have been instructed by the Trustee to make mortgage payments directly to the mortgage company beginning in the month following the Final Payment Date. Therefore, all allowed claims for pre-petition arrearages and all regular, post-petition payments have been paid in full in accordance with the confirmed Chapter 13 Plan.

Wherefore, Trustee respectfully requests that this Court enter an order:

(a) finding that all pre-petition arrearage claims of Mortgage Company have been paid in full through the Plan;

(b) finding that all regular, post-petition mortgage payments have been made by the Trustee through the Final Payment Date, and that all such “conduit” payments are deemed to have been made on a timely basis;

(c) finding that the mortgage obligation to Mortgage Company is deemed current as of the Final Payment Date; and

(d) directing Mortgage Company to adjust its loan balance to reflect the balance delineated in the original amortization schedule as of the Final Payment Date, and finding that any amounts in excess of that balance, including any alleged arrearages, costs, fees or interest are discharged pursuant to 11 U.S.C. §1328.

Respectfully submitted,

/s/ Frank M. Pees

Frank M. Pees

Chapter 13 Trustee

130 East Wilson Bridge Road #200

Worthington, Ohio 43085

(614) 436-6700

(614) 436-0190 FAX

trustee@ch13.org

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Deem Mortgage Current and Notice thereof was served on the parties listed below in the manner and on the date indicated.

Date: December 1, 2009

/s/ Frank M. Pees

Frank M. Pees, Chapter 13 Trustee

Electronic Service by ECF:

U.S. Trustee, ustpre09.cb.ecf@usdoj.gov

Frank M. Pees, trustee@ch13.org

Samuel L Calig, calighandelman@ameritech.net

Scott P Ciupak, bknotice@johndclunk.com

Regular U.S. Mail, addressed to:

Jeffrey F. and Deborah S. Howard

1946 Westfield Drive, S

Columbus OH 43223

Countrywide Home Loans

400 Countrywide Way SV 46

Simi Valley, CA 93065

America's Wholesale Lender

c/o Countrywide Home Loans

400 Countrywide Way

Mailstop SV 46

Simi Valley, CA 93065-6298

MERS, Inc.

c/o Countrywide Home Loans

400 Countrywide Way

Mailstop SV 46

Simi Valley, CA 93065-6298

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NOTICE OF MOTION TO DEEM MORTGAGE CURRENT

The Chapter 13 Trustee has filed papers with the court asking the court to deem a certain mortgage obligation to be current.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the motion, then on or before twenty-one (21) days from the date set forth in the certificate of service for the motion, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to Clerk, U.S. Bankruptcy Court, 170 N. High Street, Columbus, OH 43215 OR your attorney must file a response using the court's ECF System.

The court must receive your response on or before the date above.

You must also send a copy of your response either by 1) the court's ECF System or 2) regular U.S. Mail to:

Frank M. Pees	United States Trustee
Chapter 13 Trustee	170 N. High Street, #200
130 E. Wilson Bridge Road, #200	Columbus, OH 43215
Worthington, OH 43085	

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

/s/ Frank M. Pees
Frank M. Pees
Chapter 13 Trustee
130 E. Wilson Bridge Rd., #200
Worthington, OH 43085